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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Eric Paul Bubak

Plaintiff,

vs.

Cardenas Markets, LLC d/b/a Cardenas Markets; and
Does I through X, inclusive; and Roe Corporations I
through V, inclusive,

Defendants.

Case No.: 2:23-cv-01064-APG-NJK

**Order TO Extend Discovery
Deadlines and Amend Current
Discovery Plan and Scheduling
Order (ECF No. 17)**

(First Request)

Plaintiff ERIC BUBAK, by and through his counsel of record, John F. Bemis, Esq. of Atkinson Watkins & Hoffmann LLP and Defendant CARDENAS MARKETS LLC, by and through its counsel of record, Michael P. Lowry, Esq. and Jonathan C. Pattillo, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, hereby stipulate and agree, subject to this Court's approval, to extend the current discovery deadlines and amend the Discovery Plan and Scheduling order (ECF No. 17) by sixty (60) days. This is the first request to extend the discovery deadlines in this matter. The parties are in agreement that the requested extension is in the interest of all parties to allow the parties to efficiently litigate this case. The parties submit that this extension is sought in good faith and will not unduly delay these proceedings.

Based on this Court's stipulated discovery plan and scheduling order (ECF No. 17), the current unexpired discovery deadlines are as follows: Amending the pleadings and adding parties (expired); Initial expert disclosure: September 27, 2023; Rebuttal Expert disclosure: October 27,

2024; Close of Discovery: December 26, 2023; Dispositive Motion Deadline: January 25, 2024;
Pre-Trial Report Deadline: February 26, 2024.

I. Discovery Completed To Date.

- a. Defendant's First Disclosure of Witnesses and Documents, served on July 12, 2023.
- b. Defendant's written discovery to Plaintiff, served on July 12, 2023.
- c. Plaintiff's First Disclosure of Witnesses and Documents, served on August 8, 2023.
- d. Plaintiff's written discovery to Defendant served on August 11, 2023.
- e. Plaintiff's written discovery responses served on August 11, 2023.
- f. Plaintiff's Second Disclosure of Witnesses and Documents, served on August 22, 2023.

II. Discovery Left to Be Completed.

- a. Rule 35 Examination on September 8, 2023.
- b. Deposition of Plaintiff.
- c. Deposition of Defendant's 30(b)(6) Representative.
- d. Deposition of percipient witnesses
- e. Disclosure of expert witnesses.
- f. Deposition of Expert Witnesses

III. Reasons for Requested Extension.

The parties request additional time to conduct discovery because of the complexity of Plaintiff's injuries coupled with needing additional time to collect pre-accident medical records for Plaintiff's pain management treatment. Plaintiff fell on Defendant's premises on June 28, 2021. He went straight to hospital complaining leg pain and reported a history of lower back pain. Two weeks later he received lower back pain conservative therapy. He reported that previously he had a serious back injury in 1990. He received pain management treatment. In his discovery responses, confirmed that he had had prior pain management treatment in his lower back. Plaintiff saw Dr. James Forage on August 30, 2023, related to the determination of spinal cord stimulator versus spine surgery determination. In doing so, an additional MRI has been ordered but not yet accomplished. This will play in the determination of Plaintiff's planned course of treatment. On September 8, 2022, he

received a recommendation for a lumbar fusion at L5-S1 at a cost of \$336,295.02. On May 24, 2023, he had a trial spinal cord stimulator installed.

The parties are requesting additional time for two reasons. First, more time is needed to assess the success of the spinal cord stimulator trial and determining its effect on a permanent stimulator and the future fusion recommendation. Second, Defendant wants additional time to get the pre-accident medical records for Plaintiff's lower back. Defendant just received the authorization for these providers on August 23, 2023, and it is unlikely it will get these records in time for its experts to review them before the September 27, 2023 deadline. Thus the parties request an additional 60 days.

IV. Current Deadlines and Requested Extension

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|--|--------------------|-------------------|
| Amending the Pleadings and Adding Parties | August 28, 2023 | EXPIRED |
| Initial Expert Disclosures & Interim Status Report | September 27, 2023 | November 27, 2023 |
| Rebuttal Expert Disclosures | October 27, 2023 | December 26, 2023 |
| Discovery Closes | December 26, 2023 | February 23, 2024 |
| Dispositive Motions | January 25, 2024 | March 25, 2024 |
| Pre-Trial Order, if no Dispositive Motions | February 26, 2024 | April 16, 2024 |

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|  <p>WILSON ELSER WILSON ELSER MOSKOWITZ EDelman & DICKER LLP</p> | <p>ATKINSON WATKINS & HOFFMAN, LLP</p> |
| <p><u>/s/ Jonathan Pattillo, Esq.</u> Michael P. Lowry, Esq. Nevada Bar No. 10666 Jonathan C. Pattillo, Esq. Nevada Bar No. 13929 Attorneys for Cardenas Markets, LLC</p> | <p><u>/s/ John F. Bemis, Esq.</u> John F. Bemis, Esq. Nevada Bar No. 9509 Attorneys for Eric Bubak</p> |

IT IS SO ORDERED.
Dated: September 8, 2023


UNITED STATES MAGISTRATE JUDGE